

**DEPARTMENT OF STATE REVENUE  
LETTER OF FINDINGS NUMBER: 03-0430P  
Corporate Income Tax  
For the Year 2001-2002**

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**ISSUE**

**I. Tax Administration- Penalty**

**Authority:** IC 6-2.1-5-1.1, IC 6-8.1-10-2.1.

The taxpayer protests the imposition of penalty on the tax liability for 2002.

**II. Tax Administration- Interest**

**Authority:** IC 6-8.1-10-1 (a) (e).

The taxpayer protests the imposition of interest.

**STATEMENT OF FACTS**

The taxpayer is an out-of-state corporation that performs janitorial services and sells products in Indiana. After an audit, the Indiana Department of Revenue, hereinafter the "department," assessed gross income tax against the taxpayer. The taxpayer protested the penalty and interest. No penalty was imposed on the adjustment resulting from the audit of the tax year ending December 31, 2001. A penalty was imposed for the failure to file the return and pay the tax by the due date for the tax year ending December 31, 2002. Although the taxpayer was given adequate time, the taxpayer never requested a hearing on the imposition of the penalty and interest. Therefore, this Letter of Findings is based upon the documentation in the file.

**I. Tax Administration- Penalty**

**Discussion**

IC 6-2.1-5-1.1 requires taxpayers to file gross income tax returns and pay at least twenty-five percent (25%) of the total estimated liability on a quarterly basis. IC 6-8.1-10-2.1 imposes a ten

percent (10%) penalty on taxpayers who fail to file a return or fail to timely pay the total tax liability. The taxpayer failed to file the required quarterly gross income tax returns for the year 2002. The taxpayer also failed to timely pay the estimated gross income tax due for the year 2002. The department properly imposed the penalty on the taxpayer for the year 2002.

### **Finding**

The taxpayer's protest is denied.

## **II. Tax Administration- Interest**

### **DISCUSSION**

The taxpayer protests the imposition of interest pursuant to IC 6-8.1-10-1 (a) as follows:

If a person fails to file a return for any of the listed taxes, fails to pay the full amount of tax shown on his return by the due date for the return or the payment, or incurs a deficiency upon a determination by the department, the person is subject to interest on the nonpayment.

The law goes on to state at IC 6-8.1-10-1 (e) that “. . . the department may not waive the interest imposed under this section.” Clearly, the department does not have the authority to waive interest under any circumstance. Therefore, the interest cannot be waived in this taxpayer's cause.

### **FINDING**

The taxpayer's protest is denied.